

MAR 17 2010

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 09-90003, 09-90034,
09-90035, 09-90036, 09-90105,
09-90106, 10-90005, 10-90006,
10-90007 and 10-90008

ORDER

KOZINSKI, Chief Judge:

Five misconduct complaints and four supplements have been filed against three district judges and a magistrate judge. Complainant previously filed a misconduct complaint alleging that three of the subject judges conspired to cover up evidence that his arrest warrant was fraudulent and his indictment invalid. I dismissed the charges as either merits related or lacking objectively verifiable proof, and the Judicial Council affirmed. See In re Complaint of Judicial Misconduct, No. 08-89043 (9th Cir. Jud. Council 2008). The current complaints repeat the same allegations, and complainant again fails to provide any supporting evidence. My prior order makes further action on these charges unnecessary. See Judicial-Conduct Rule 11(c)(1)(C); In re Complaint of Judicial Misconduct, 563 F.3d 853, 854 (9th Cir. Jud. Council 2009). Further misconduct complaints presenting fundamentally the same allegations may be dismissed summarily as

frivolous.

Complainant now claims a fourth judge was part of the same conspiracy. But complainant has once again failed to provide any objectively verifiable proof to support his allegation. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009). This charge must therefore be dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant also alleges that this fourth judge improperly denied a motion to dismiss for lack of jurisdiction, and that the magistrate judge issued a fraudulent arrest warrant in a case to which defendant is not a party. These charges relate directly to the merits of the judges' rulings and must be dismissed. 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B). A misconduct complaint is not a proper vehicle to challenge a judge's rulings on the merits. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant newly alleges that one of the judges tampered with a copy of an order after it was filed. But a review of the docket and the document does not support this allegation. Because complainant has provided no other objectively verifiable proof to support this allegation, it must be dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant's allegation that a judge failed to return documents that he filed

in one of his cases is dismissed for failure to allege conduct prejudicial to the effective and expeditious administration of the business of the courts. 28 U.S.C. § 351(a); Judicial-Conduct Rule 11(c)(1)(A). Judges have no obligation to return documents after they have been filed; such documents are ordinarily retained by the court.

To the extent that complainant raises allegations against prosecutors and court staff, the charges are dismissed because this misconduct complaint procedure only applies to federal judges. See Judicial-Conduct Rule 4.

Complainant has filed six misconduct complaints and four supplements, all raising essentially the same allegations, and all attempting to use the misconduct complaint procedure to pursue frivolous and unsubstantiated claims and to relitigate the judges' rulings on the merits. Complainant is therefore ordered to show cause why he should not be sanctioned by an order requiring him to post a bond of \$2,000 before filing any further misconduct complaints. See Judicial-Conduct Rule 10(a); In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009). Complainant has thirty days from the filing of this order to file a response, which will be transmitted to the Judicial Council for its consideration.

DISMISSED and COMPLAINANT ORDERED TO SHOW CAUSE.